



## FINAL DETERMINATION

DATE ISSUED AND MAILED: October 25, 2016

IN RE: *Eric Friedman v. Delaware County*, OOR Dkt. AP 2016-1800

Upon review of the appeal filed with the Office of Open Records (“OOR”) to the above-referenced docket number, it is determined that the appeal is deficient for the reason(s) specified below. Accordingly, the appeal is **DISMISSED**.

- Appeal filed beyond fifteen (15) business days of denial/deemed denial.
- Appeal failed to include a copy of the Request and/or agency Response.
- Appeal failed to state why records are public records.
- Appeal failed to address agency grounds for denial of access to records.
- OOR lacks jurisdiction over agency from which records are sought.
- OOR lacks jurisdiction over local agency criminal investigative records.
- Other: Appeal is premature. Request dated October 5, 2016. Agency invoked a 30 day extension on October 13, 2016. Agency has 5 business days and 30 calendar days to issue a final response, or until November 14, 2016. Appeal filed on October 24, 2016. OOR allows three additional days for mailing pursuant to Section IV(C)(5)(b)(i) of the OOR Procedural Guidelines. Appeal may be filed after agency final response or 11:59:59 p.m. of November 16, 2016, whichever comes first. Section 902 of the RTKL grants agencies the discretion to extend its response time. The OOR lacks jurisdiction to consider an appeal of matters committed to agency discretion. *Pa. Dep’t of Pub. Welf. v. Froelich*, 29 A.3d 863 (Pa. Commw. Ct. 2011).

Within thirty days of the mailing date of this Final Determination, you may appeal or petition for review to the Delaware County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to court rules as per Section 1303. However, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.<sup>1</sup>

Issued by:

/s/ Charles Rees Brown

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Chief Counsel  
Charles Rees Brown

Sent to: Requester, Agency Open Records Officer

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<sup>1</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).